

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Stephen A. Clements,)	Civil Action 6:19-2161-BHH
)	
Plaintiff,)	
)	
vs.)	
)	OPINION AND ORDER
The Bank of New York Mellon,)	
)	
Defendant)	
_____)	

This matter is before the Court for review of the Report and Recommendation of United States Magistrate Judge Kevin F. McDonald made in accordance with 28 U.S.C. § 636(b) and Local Rule 73.02 for the District of South Carolina. On September 19, 2019, the Magistrate Judge issued a Report and Recommendation (“Report”) recommending that this case be dismissed because the complaint fails to state a claim upon which relief may be granted, because Plaintiff failed to file an amended complaint or cure the deficiencies outlined by the Magistrate Judge in his order of August 7, 2019 Order, because the Court lacks subject matter jurisdiction over this action, and pursuant to Federal Rule of Civil Procedure 41(b) for failure to comply with a Court Order. (ECF No. 13.) The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report. (*Id.* at 8.) Plaintiff filed no objections and the time for doing so has expired.

STANDARD OF REVIEW

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The

Court must make a *de novo* determination of those portions of the Report, or specified proposed findings or recommendations, to which specific objection is made. 28 U.S.C. § 636(b)(1)(C). The Court may accept, reject, or modify, in whole or in part, the Report or may recommit the matter to the Magistrate Judge with instructions. *Id.* In the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005). *De novo* review is also “unnecessary in . . . situations when a party makes general and conclusory objections that do not direct the court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

Plaintiff filed no objections and the time for doing so expired on October 7, 2019. In the absence of objections to the Magistrate Judge’s Report, this Court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, the Court must only satisfy itself that there is no clear error on the face of the record. *Diamond*, 416 F.3d at 315. For the reasons set forth in the Report, Plaintiff’s complaint fails to state a claim upon which relief can be granted, the Court lacks subject matter jurisdiction over this matter, and Plaintiff has failed to amend his pleading within the allotted time period. Furthermore, Plaintiff has failed to comply with this Court’s Orders. As such, the Court finds that this case should be dismissed pursuant to Rules 12(b)(6), 12(h)(3), and 41(b).

After a careful review of the record, the applicable law, and the Report, the Court

finds that the Report evinces no error and the Magistrate Judge's recommendation is proper. Accordingly, the Report is adopted and incorporated herein by reference. This case is dismissed *with prejudice* and without issuance and service of process pursuant to Rules 12(b)(6), 12(h)(3), and 41(b).

IT IS SO ORDERED.

/s/Bruce H. Hendricks
United States District Judge

October 9, 2019
Charleston, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.